

Instructions

FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF THE EXECUTIVE DIRECTOR
WASHINGTON, D.C.

FLRA 1910.3

**SUBJECT: CONTINGENCY PLAN FOR SHUTDOWN OF OPERATIONS IN THE
ABSENCE OF APPROPRIATIONS**

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April 7, 2011

**SUBJECT: CONTINGENCY PLAN FOR SHUTDOWN OF OPERATIONS IN THE
ABSENCE OF APPROPRIATIONS**

- A. **PURPOSE.** The purpose of this instruction is to establish procedures to govern the operations of the Federal Labor Relations Authority (FLRA) in the event of a lapse in appropriations. All agencies are required to maintain a contingency plan in the event of an appropriations hiatus.
- B. **CANCELLATION.** This instruction cancels and supersedes FLRA Instruction 1910.2, dated September 22, 1995, subject: "Contingency Plan for Shutdown of Operations in the Absence of Appropriations."
- C. **SCOPE.** This instruction applies to all offices and employees within the FLRA.
- D. **REFERENCES.**
1. Office of Management and Budget (OMB) Circular A-11 Section 124 (2011).
 2. Anti-Deficiency Act, 31 U.S.C. § 1341, 1342.
 3. "Authority for the Continuances of Government Functions During a Temporary Lapse in Appropriations," 5 Op. Off. Legal Counsel 1 (1981).
 4. Department of Justice Advisory Opinion dated August 16, 1995, "Government Operation in the Event of a Lapse in Appropriations."

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5. Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7101-7135 (1978).

E. **POLICY.** In the event of an appropriations hiatus, it is the policy of the FLRA to:

1. Commence the process of expeditiously shutting down the FLRA by securing files, property and office facilities.
2. Ensure that the FLRA meets its responsibilities to the parties under the Federal Service Labor-Management Relations Statute, consistent with the requirements of the Anti-Deficiency Act.
3. Ensure that FLRA employees are fully informed as to the reasons for the shutdown; that there are avenues of communication for contacting employees when Agency operations are to resume; and that payroll and other employee benefit obligations authorized during the shutdown period are met.

F. **RESPONSIBILITIES.**

1. The FLRA Chairman, as Chief Executive and Administrative Officer, is responsible for ensuring that all determinations are made that are necessary to operate the FLRA during an appropriations hiatus.
2. The Executive Director, FLRA, is responsible for ensuring the development, coordination, issuance, and maintenance of the FLRA Contingency Plan, and ensuring that appropriate action is taken regarding the orderly shutdown of Agency activities.
3. The General Counsel is responsible for ensuring that regional activities take all actions necessary related to shutdown activities.
4. The Federal Service Impasses Panel Chairman is responsible for ensuring that Panel activities are shutdown in accordance with this plan.
5. Supervisors are responsible for taking appropriate action, consistent with management guidance, regarding the orderly shutdown of activities.

6. Employees are encouraged to monitor local radio, television and official government internet sites for information regarding recall for work information after the suspension of Agency activities.

G. **ORDERLY SHUTDOWN ACTIVITIES.** Upon notification of an appropriations hiatus, Agency employees will be advised to immediately begin an orderly shutdown of Agency activities. The process of communicating the shutdown order, securing files and physical facilities, notifying parties of the cancellation of hearings, and canceling court appearances and meetings will take approximately one-half work day. Employees who are in a travel status when a funding hiatus occurs should communicate with their supervisor(s) immediately for instructions. After completion of shutdown activities, employees who are not necessary to perform essential Agency activities or shutdown operations, will be furloughed.

OMB and the Department of Justice guidance define necessary employees as those required "to protect life and safeguard property and records." Within this context, protection of life and property by FLRA could occur in an instance such as follows:

- To resolve disputes involving a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute that interferes with an agency's operations (5 U.S.C. § 7116(b)(7)) and that involves employees/agencies who protect life and property (e.g., border patrols, air traffic controllers, meat inspectors, health care personnel, national defense and national security personnel).

In this situation, a limited number of FLRA employees must be available:

- to investigate work stoppage situations and make recommendations to the General Counsel (GC) for issuance of an unfair labor practice complaint and the appropriateness of seeking temporary relief (including a restraining order) under 5 U.S.C. § 7123(d); and

- upon the determination of the GC to issue complaint and seek temporary relief, for the Chairman and Members of the Authority under § 7123(d) of the Statute to authorize the GC to seek injunctive relief, and to process the district court injunction action.

Of the approximate 130 current Agency employees, four employees, which consist of the FLRA Chairman, two Authority Members and the GC, are deemed necessary to perform the tasks above. The four employees are each appointed by the President by and with the advice and consent of the Senate under 5 U.S.C. § 7104(b) and (f)(1). A listing of the excepted staff deemed necessary to maintain the operations of the Agency during an appropriations hiatus is shown in Attachment A. During a shutdown period, an employee may not volunteer to do his or her job on a nonpay basis nor may an Agency accept such voluntary services of an individual, unless otherwise authorized by law (31 U.S.C. § 1342).

H. **GENERAL SHUTDOWN ACTIVITIES.**

1. All materials of a confidential nature will be identified and secured.
2. Incomplete projects will be listed, with priorities for the orderly resumption of activities upon return to work.
3. Emergency situations (e.g., current or imminent labor disputes which are seriously adverse to the public interest) requiring immediate attention, will be identified and brought to the attention of the appropriate management official.
4. Telephone and/or electronic contacts will be made whenever required to advise parties in active cases, court personnel, contractors and other members of the public of Agency shutdown, and appropriate arrangements will be made for each situation. Incomplete contacts of this nature will be identified for followup by those staff members retained to operate the Agency during shutdown. Telephone messages should be recorded at all office locations throughout the FLRA and an electronic message should be posted on the FLRA website indicating to the public that the Agency is in temporary "shutdown" mode.
5. All of the Regional Office telephones will have a

recorded message to identify to the public that the FLRA is in a temporary "shutdown" mode. On the outside door of each Regional Office, a written message will be posted to advise the public to please call the General Counsel's National Office at the current telephone number for hand deliveries. In addition, all Regional Office phone and written messages, and the electronic message on the FLRA website will specify that any charges involving a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute that interferes with an agency's operations (5 U.S.C. § 7116(b)(7)) and that involves employees/agencies who protect life and property (e.g., border patrols, air traffic controllers, meat inspectors, health care personnel, national defense and national security personnel) must be filed with the General Counsel's National Office. Such notice will include the necessary contact information for that office.

6. No obligations may be incurred unless strictly required to effect shutdown or for protection of life and property. Although these obligations may be incurred, no funds may be disbursed. The Executive Director will determine whether an obligation is required to effect shutdown or for the protection of life and property.
7. Equipment will be made secure to the maximum extent possible.
8. Supervisors will secure files and will ensure all computer data will be backed up.
9. Supervisory staff will make arrangements for telephone communications systems for their respective areas of responsibility. These systems will be used by management and employees as a means to disseminate information regarding return to work. Each system will include home (or alternate) telephone numbers in order to apprise employees of the latest developments regarding Agency appropriations.

This instruction is effective April 7, 2011.



Sonna Stampone
Executive Director

ATTACHMENT A

Excepted Staff Deemed Necessary

Chair	(1)
Authority Members	(2)
General Counsel	(1)

Total number of employees necessary
to operate the Agency during an
appropriation hiatus.

4¹

¹ In the event that any FLRA employee needs to be contacted to resolve a specific dispute or take actions required to safeguard FLRA property, the employee(s) would be deemed necessary solely for that purpose.